COURT NO.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No. 12 of 2002

M/s Sedco Forex Intl. Drilling Inc.
A company incorporated in the Republic of Panama,
Having its registered office at No.8, Acqutino de la
Guardia Street, City of Panama, Republic of Panama,
Present address C/o A.F. Ferguson & Co., Makers Towers,
4th Floor, Cuffe Parade, Mumbai

..... Appellant

Versus

1. The Commissioner of Income Tax, Meerut having office at Income Tax Officer, Opp. Bhasali Ground, Meerut
2. The Deputy Commissioner of Income Tax, Special Range-1, Dehradun having office at Subhash Road, Dehradun- 248001

..... Respondents

Ms. Menka Tripathi, Advocate for the appellant.
Ld. Standing counsel for the Revenue.

Dated: March 06, 2006

Coram: Hon. P.C. Verma, J.
Hon. B.C. Kandpal, J.

Both the parties are ready to argue the matter today.

2. This appeal has been preferred against the order dated 27.11.2001 for the assessment year 1989-90, passed by the Income Tax Appellate Tribunal, (Bench 'B' New Delhi).

3. The learned counsel for the parties agree that the following only two questions of law arise in this appeal for

the determination. They do not press the rest of the question framed in the appeal: -

1. **Whether the learned I.T.A.T. was right in holding that the payments made to the assessee Company were technical fees and hence taxable under Section 44-D of the Act?**

2. **Whether the Tribunal was right in holding that off period salary was not taxable under section 9(1)(ii) read with the Explanation as it stood at the relevant time?**

4. So far as the question No.1 is concerned, this question has already been decided by a Division Bench of this Court {in which one of us (P.C.Verma,J.) was a member} in case of "*Commissioner of Income Tax and another Vs. O.N.G.C. as agent of M/s Foramer France, Dehradun*, which was decided on 15.12.2005 in Income Tax Appeal No.239 of 2001. In the said judgment, the question framed in the said appeal was answered in favour of the Revenue.

5. The aforementioned second question has also been decided by the Hon'ble Apex Court in Civil Appeal Nos.351-355 of 2005 "**Sedco Forex International Drill Inc. and Others Vs. Commissioner of Income Tax, Dehradun and Another, JT 2005(9) SC 639**". In view of the aforesaid decision of the Hon'ble Apex Court, this question is answered in favour of the assessee.

6. In view of the above, we dispose of the appeal accordingly.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

Rajeev Dang